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## The heroes of Bomber Command deserve their memorial... unlike the butcher who led them

By [Peter Hitchens](#) 21:02 GMT, 30 June 2012 | UPDATED: 21:33 GMT, 1 July 2012

Now that we have a memorial at last to the thousands of men who flew and died in Bomber Command, can we please cart away the ugly statue of that unpleasant man Air Chief Marshal Sir Arthur Harris, GCB, OBE, AFC?

I am lost in admiration for those crews. I do not know how, night after night, they left all that was dear to them, climbed into a cramped and freezing death-trap and set off into the dark. Nearly half of them would die horribly, and they knew it.

The death rate was an appalling 44 per cent – 55,573 of the very best, brightest and bravest young men in Britain, the Commonwealth and the Allied countries gone for ever, and our ill-led, sloppy and declining country has felt their loss every day since. Heaven knows it is time their sacrifice, and the equal bravery of those who survived, was marked. A medal would be nice, too.



**The Bomber Command Memorial in Green Park, London, which was unveiled by the Queen last Thursday**

But Harris deserves no such commemoration. No doubt he had been brave in his time, and his honesty must be commended. But not since the futile carnage of the Somme in 1916 had any British military commander been so wasteful of young life, broken so many homes, destroyed so many futures, turned so many living, laughing human beings into corpses.

The football crowds who crudely chant his name to tease modern Germans call him 'Bomber Harris'. His aircrews had another name for him. To them, he was 'Butcher Harris' because he was so ready to sacrifice their lives.



**The statue of Sir Arthur Harris has often been vandalised over the years**

And for what? The bomber boys did what they believed was their duty and asked few questions. They had enough to worry about, not knowing if they would live until morning. They hoped that the War Cabinet and the Air Marshals knew what they were doing.

Arthur Harris had no such excuse. Nor did the architects of the deliberate bombing of German civilians in their homes. That, by the way, is what we did. As Harris himself said, the aim of his offensive should be unambiguously described as 'the destruction of the German cities, the killing of German workers, and the disruption of civilised life throughout Germany'.

To remove all doubt (and Harris was annoyed that Winston Churchill wouldn't admit the truth in public), it was aimed at 'the destruction of houses, public utilities, transport and lives, the creation of a refugee problem on an unprecedented scale, and the breakdown of morale at home and on the battle fronts by fear of

extended and intensified bombing'. He stated 'these are not by-products of attempts to hit factories'.

**More...[If you want to comment on Peter Hitchens click here](#)**

Harris actively preferred this form of warfare to the more difficult but immensely more militarily effective targeting of oil refineries, railway marshalling yards and warlike installations which many experts believe would have been far more damaging to Hitler, and would have drawn away just as many guns and planes from the Russian front (the lame excuse for the bombing of homes).

To this day, few British people know what we actually did to Germany. We know of and are rightly angered by the Luftwaffe attack on Coventry and by the London Blitz. But these wretched events were tiny compared with the ruin we inflicted on Germany.



**Air Marshall Arthur Harris was known to his aircrews as 'Butcher Harris' because he was so ready to sacrifice their lives**

And if we find Coventry and the Blitz outrageous, as we should, how can that justify doing the same thing to German civilians?

The victims included women and small children and were concentrated in working-class areas where most people had never voted for Hitler, so it's hard to say 'they asked for it'.

It is very difficult to bear descriptions of what happened to civilians – not just in Hamburg and Dresden but in dozens of lesser cities. Do not read them unless you have a strong stomach.

I don't call this a 'war crime' because the phrase is more or less meaningless. As those who have actually fought in wars know, all war is crime, mixed with hell. The question is whether it can possibly be justified. Nor do I (as some liars will immediately claim) in any way compare it with the crimes of the Germans against the Jews. The two are not remotely equivalent and anyone who says so is a fool and a scoundrel.

BUT nobody has ever found a way to make two wrongs make a right. And after long thought and much study, I have come to the unhappy conclusion that the bombing

policy was wrong. One day, when the last of those who risked their lives in the 1939-45 war are no longer with us, this country may begin to have a grown-up discussion about that war.



**The Queen unveils the Bomber Command Memorial in Green Park, London. The memorial remembers the sacrifice and bravery of the 55,573 crew who lost their lives**



**The Queen, who is celebrating her Diamond Jubilee, was joined by the Duke of Edinburgh, Prince Charles and the Duchess of Cornwall**

Actually, I suspect that most of the veterans are far less sentimental than my blessed generation, who never saw war face to face.

My late father had to endure the grisly, frozen horrors of the Russian convoys. He was full of scorn for the politicians who sent him there, disliked especially the alliance with Stalin's criminal tyranny, shuddered at the recollection of those Arctic seas and would sometimes murmur meaningfully: 'Yes, we won the war . . . or did we?'

Or did we? I find it hard to see what we got out of our victory. Do we rule the waves? Are we a great power? Do we control our borders, or our destiny? Is this tatty multicultural theme park a land in any way fit for the brave men who saved it?

Here's a puzzle. On the side of the Bomber Command monument is carved a list of the donors who made it possible. Among them is the name of a man who made his fortune from pornography, and who lacks the modesty to keep his donation a secret.

When the Lancaster crews told themselves that they were risking their lives for freedom, was that the sort of freedom they were thinking of?



### **Sinn Fein thrives on hate, not handshakes**

When the Queen went to Dublin last year, we in Britain did not pay enough attention. It was in many ways the best thing she ever did. In a series of brave and difficult moments, she sought true reconciliation between decent British people and decent Irish people, who should never have been enemies in the first place. It was a true transformation.



**Mistake: The Queen greets Martin McGuinness in Belfast last week**

Almost all Ireland was moved and pleased. Only the fanatics of Sinn Fein nursed their ancient grudge. Hate is what keeps them warm. They used violence because they preferred it, and they still do. You cannot reconcile with people who still hate you. That is why the Dublin visit was right, and the handshake with Martin McGuinness was wrong.

.....  
Now it's recognised that wasps and bees kill more people in Britain than terrorists do, can we recover a sense of proportion about the terror threat and stop using it as a pretext for an assault on freedom?

.....  
The BBC says it got 'over-excited' about the Arab Spring and boss Mark Thompson admits it was Left-wing in the Thatcher era.

Why must these confessions be limited to the past? It's over-excited about Syria now, and institutionally Left-wing all the time.

<http://www.dailymail.co.uk/debate/article-2166966/PETER-HITCHENS-The-heroes-Bomber-Command-deserve-memorial--unlike-butcher-led-them.html#ixzz1zcwS4OMU>

## **Everything people believed about Hitler's intentions toward Britain was a myth created by Churchill**

**Kevin Myers, *Irish Independent*, Tuesday June 19 2012**

It's good that the Government is going to pardon the thousands of Army deserters who enlisted in the British forces during World War Two. Of course, no army can allow desertion; however, these men were not court-martialled, but were subject to a blanket ban on state employment that deprived them of their constitutional right to due process. Moreover, the vast majority of them deserted from June 1941 onward, when the theoretical possibility of a German invasion had all but vanished, and after De Valera's government had, by deciding to retain the volunteers indefinitely, violated the original terms of enlistment (between one and two years) for which most had signed up in 1940. The men who deserted did so after being effectively cheated into becoming soldier-serfs, cutting turf on the Bog of Allen. That was the second great lie of their young lives. The first one was that Ireland ever faced a serious threat of invasion by Germany, which was the spawn of an even vaster falsehood -- that in 1940, Hitler wanted to invade Britain. But he didn't. He actually admired the British Empire, with its inherent presumption of racial superiority. We know from the diaries of Lord Halifax, the British foreign minister, that Hitler offered terms that did not involve German control of Britain. Churchill refused to allow these terms to be read to the cabinet, and they remain prudently concealed under the 100-year rule.

Instead, Churchill's determination to keep Britain at war turned what had been merely a continental defeat of its army into the enduring myth that in 1940, Britain faced a war for national survival.

But the German naval leader, Raeder, had repeatedly forbidden his staff from planning an invasion of Britain. And far from wanting to continue the war, in June 1940, Hitler ordered 20pc of his army to be demobilised, in order to get the German economy going again. The "invasion fleet" that the Nazis began to assemble that summer was no more capable of invading Britain than it was Hawaii. It was war by illusion: its purpose was to get the British to the negotiating table.

This "fleet" consisted of 1,900 canal barges, only one-third of which were powered, to be towed cross-channel, in clusters of three, by just 380 tugs. These barges had tiny keels, blunt bows and small rudders, with just two feet of freeboard: the distance between the water and the top of the hull. They would have been swamped during even a direct crossing of the English Channel, a shallow and violent waterway linking the raging North Sea and Atlantic. But an invasion would not be direct. The barges, with their untrained crews, would be able to make only about three knots, from the three "invasion" centres: Rotterdam, Le Havre and Boulogne. These ports are, respectively, from any

south-coast landing beaches, at best, 200 miles and 60 hours, 100 miles and 30 hours, and 50 miles and 15 hours, with seasick soldiers crammed into keel-less floundering barges without toilets or water. What army would be fit to fight after a journey like that? And then there's the 55,000 horses that the Wehrmacht would need: its transport was still not mechanised.

All being well, and that really is a relative term, the first "wave" would take 10 days to land, with the barges plying to and from those three distant ports, requiring tides that would have to obey the demands of the Fuehrer rather than the older ones of the sea, in convoy, often at night, and always without navigation lights.

Why no lights? Ah: the Royal Navy. This is where matters become quite phantasmagorical. In August 1940, the British Home Fleet ALONE consisted of 140 destroyers, 40 cruisers and frigates, five battleships and two aircraft carriers.

The entire German navy, the Kriegsmarin, consisted of just seven destroyers, one cruiser with unreliable engines, two working cruisers, no aircraft carriers, and no battleships or battle cruisers: the Bismarck and Tirpitz were still building, and the Gneisenau and Scharnhorst were damaged and out of action until the following winter.

What about the Luftwaffe? Well, it had no torpedo-carrying aircraft, whereas the British had two (the Beaufort and the Swordfish, both of which were later to show their mettle in disabling German capital ships), and air-bombing vigorously defended warships accurately over an open sea is incredibly difficult, even for dive-bombers: Stuka bomb sights were calibrated for stationary targets. All right, but were not British shores defenceless in 1940? No -- aside from a largely intact British army, two fully-equipped Canadian divisions arrived that summer, as did 200,000 rifles from the US on the 'SS Britannic'.

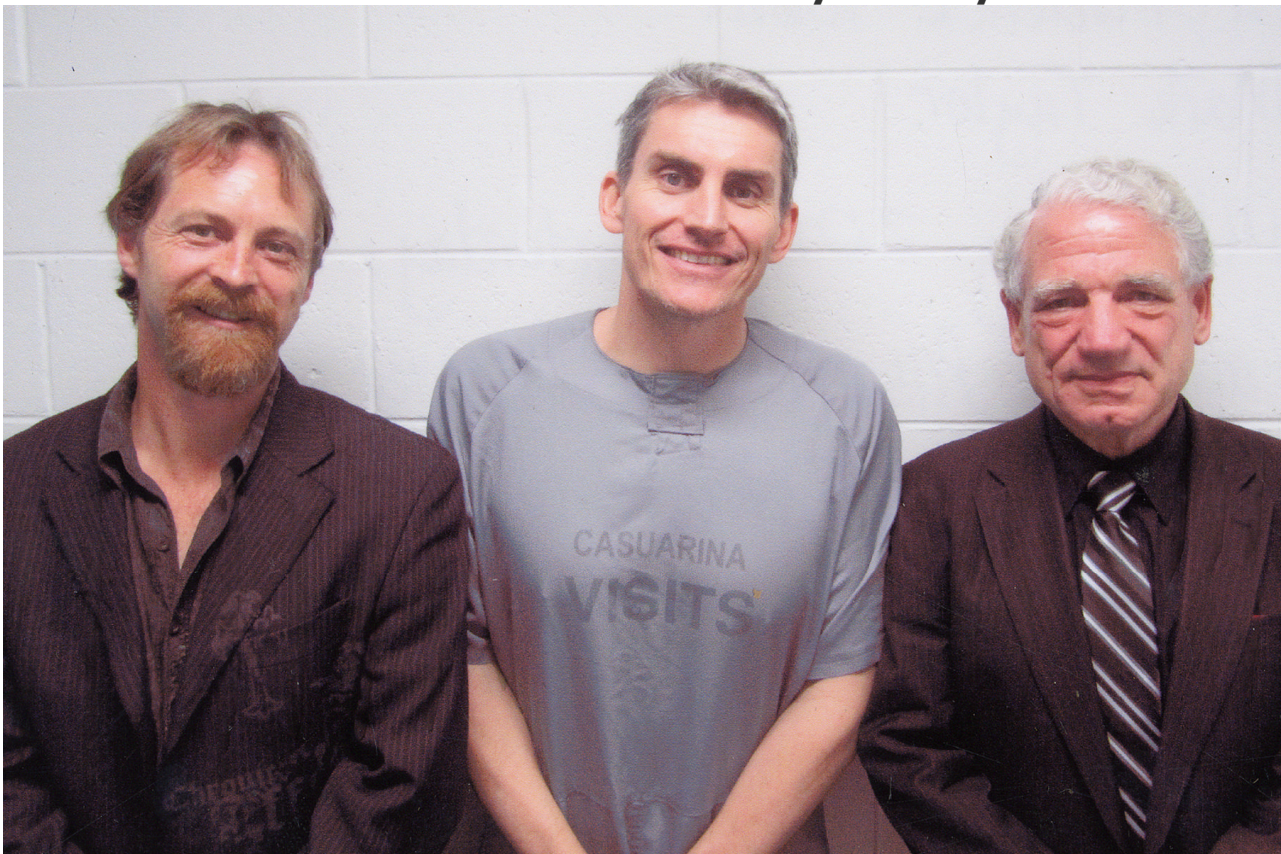
This doesn't diminish the validity of the allied cause, or the later decision of the nearly 7,000 Army deserters who enlisted in it, for they were taking arms against one of the most evil regimes in world history.

Nonetheless, just about everything that people believed about Hitler's intentions towards Britain in 1940 -- and still believe today -- was a myth created by Churchill, which he probably came to believe himself. Consider all the facts above, and then consider how that myth has endured, despite them. Makes you wonder, no?

**Irish Independent**

<http://www.independent.ie/opinion/columnists/kevin-myers/kevin-myers-everything-people-believed-about-hitlers-intentions-toward-britain-was-a-myth-created-by-churchill-3143805.html>

## **Dr Fredrick Töben's visit with Brendon O'Connell at Casuarina Maximum Security 19 May 2012**



**Mark Taylor – Brendon O'Connell – Fredrick Töben**



Fredrick Töben 20/05/2012 - currently in Perth visiting Australian political prisoner Brendon O'Connell who at a pro Palestine rally had a verbal altercation with a young Jew about Israeli fruit imports to Australia. It was deemed to be a racist attack and he is spending three year in prison - he is now on his 71st hunger-strike day in sympathy with the Palestinian hunger strike prisoners in Israeli jails.

Brendon's verbal altercation, which was not moral turpitude, is only the pretext for taking him out of circulation. What Brendon has exposed is a matter of Australian national security - the fact that Israelis are spying on Australian security operations and undermining them - the IT onslaught is massive - and he can rattle off the names of the IT companies that are doing it.

Australia's Human Rights Commission is also not interested in according Brendon any human rights. because he is now labelled a 'racist' something that is a nonsense because Brendon's Christian belief is a universal that does not discriminate against races. However, when a hijacked bureaucracy has the power to implement ideological constraints on behalf of a small vested interest, then injustices occur. We saw this recently occurring in Canada where Arthur Topham has been deemed to be a threat to national security and arrested and charged by Canada's police at the

behest of the professional haters such as Warman. Remember that such mindset splits free expression into free speech and hate speech, and anything that does not further their agenda is deemed to be HATE SPEECH.

Civilised dialogue is abandoned for the sake of national security - and this means that individuals interested in this fight need to make contact with their local police, with the federal police and with Security Agencies, as Captain Eric may has been doing for a long time. This silly notion that freedom fighters must avoid these organisations needs to be dispelled by those who are concerned about Australia's national security interests coming under attack from Israeli interests.

So, let's reflect on the national security aspect of Brendon's activities and how it has impacted on the legal process that handed him a three-year prison term and has criminalised him as well. The message for all nationalists emanating from the Brendon O'Connell case is not to go there - the consequences of mentioning things Israeli-Jewish in Australia will have dire consequences

<http://brendonoconnellincarcerated2.blogspot.com.au/2012/05/dr-fredrick-tobens-visit-with-brendon.html>

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## **Julian Assange's extradition stayed thanks to quick legal footwork**

### **Dinah Rose QC buys her client another two weeks - much to the supreme court's embarrassment**

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[Joshua Rozenberg, guardian.co.uk](#), Wednesday 30 May 2012 12.36 BST



Gareth Peirce, a lawyer representing WikiLeaks founder Julian Assange, addresses the media outside the supreme court on 30 May 2012. Photograph: Oli Scarff/Getty Images

[It was all going so well](#). Lord Phillips, soon to retire as president of the supreme court, was explaining [the judges' reasoning](#) in clear English suitable for a world-wide live television audience. By a majority of five to

two, the supreme court had agreed with the lower courts that the Swedish prosecutor qualified as a "judicial authority" and could therefore issue an [European arrest warrant](#) for [Julian Assange](#).

It looked as if he had lost his final appeal against [extradition](#). Two burly security guards ensured that not a peep was heard from Assange's supporters in court. The judges had been warned that [Dinah Rose QC](#), his fearless counsel, wanted to address the court. But they were not prepared for what she had to say.

That was largely their own fault. Normally, draft judgments are circulated to counsel up to a week before delivery. That enables the lawyers to point out minor errors: a name mistyped, a date wrong and so on. It's something of a safeguard for the judges. But since it was the Wikileaks man whose appeal they were hearing, the supreme court justices were taking no chances. To avoid leaks, lawyers were not shown the judgments until 8.30 this morning.

That was just enough time for Rose to work out that the court had based its reasoning on a point that had never been argued at the two-day hearing in February.

Assange, who didn't turn up for the judgment, knew nothing of what was being done on his behalf.

It's not unusual for judges to think up points that were never mentioned during a hearing. They had done so in this case, on a completely different point, and had asked both sides for written observations after the hearing. But nobody had ever asked counsel about the issue on which the majority had apparently based their decision.

This was the point raised by Phillips in paragraph 67 of the [judgment](#). As he explained, the [1969 Vienna convention on the law of treaties](#) permits recourse, as an aid to interpretation, to "any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation". In other words, if countries had subsequently interpreted "judicial authority" in the framework direction to include a prosecutor, that must have been what the treaty meant.

That was only one of five reasons given by the supreme court president. But his colleague Lord Walker said, in paragraph 94, that the Vienna convention point was "determinative". Lord Brown, in the next paragraph, said he was inclined to base his conclusion "principally on the fifth of Lord Phillips's reasons". In Brown's view, it was "ultimately critical".

Lord Kerr (paragraph 108) left the point undecided. And Lord Dyson cited the treaty before saying, in paragraph 131, that past practice established acquiescence in arrest warrants being issued by prosecutors. So it's arguable that at least three judges regarded the point as decisive, a majority of the majority. But were they entitled to take account of it?

The judges gave Rose two weeks to make written submissions on this point. "If she decides to do so", [they said later](#), they would "then decide whether to re-open the appeal and accept further submissions (either verbally through a further hearing, or on paper) on the matter."

In the end, the judges may decide that they were entitled to take the Vienna convention into account. In that event, they would presumably confirm the decision they delivered today. But given two weeks to prepare her case, Rose could well come up with other arguments. In the meantime, Assange can stay in the UK.

All this must be very embarrassing for the supreme court. As far as I know, it has not reopened a case since it opened for business nearly three years ago. The law lords, from whom the supreme court judges took over in 2009, reopened only one of their decided cases. That was in 1998, on the question of whether Augusto Pinochet could extradited to Spain, where the former Chilean dictator was facing charges of torture and hostage-taking. Lord Hoffmann, one of the judges, sat while disqualified as a matter of law and [Clare Montgomery QC](#) persuaded the law lords that they had the inherent power to reopen their previous decision.

This time round, she is representing the Swedish prosecutor. Montgomery was working on another case this morning and did not attend the supreme court for what was meant to have been a formal "hand-down" judgment. But she did not go unmentioned. The normally unflustered president of the supreme court addressed Rose as "Miss Montgomery" and was sharply corrected by Assange's counsel.

It all goes to show that, in the law, things don't always turn out as you expect. For reasons that are nothing to do with the sexual assault charges that Assange may face in Sweden, and still less to do with Wikileaks, he lives to fight another day.

This article was corrected at 1.25pm on May 30. We said that Julian Assange had been charged in Sweden. The Swedish Prosecution Authority has not yet charged him, but seeks his extradition after accusations of sexual molestation and rape.

<http://www.guardian.co.uk/law/2012/may/30/assange-extradition-halted>

## **>backchannels**

### **Assange and allies claim vast conspiracy as extradition fight hits home stretch**

**Two women in Sweden allege they were sexually assaulted by Julian Assange, the Wikileaks founder. Assange and many supporters say they're part of a vast conspiracy against him.**

By [Dan Murphy](#), Staff correspondent / 1 June 2012



**Supporters of WikiLeaks founder Julian Assange put a banner up bearing an image of him on a British Union flag before the verdict was given in his extradition case at the Supreme Court in London, Wednesday, May 30.**

**Matt Dunham/AP.**

Two women have alleged that [Julian Assange](#), the founder of the [Wikileaks](#) website, sexually assaulted them in [Sweden](#). Mr. Assange and his supporters insist the allegations are the result of a combination of two women scorned seeking revenge and a Swedish state that is secretly conniving with the US to extradite the former hacker to the US to face charges related to his release of hundreds of thousands of [US military](#) and [State Department](#) documents two years ago.

Now Assange's nearly two-year fight against extradition to Sweden for questioning over the allegations is heading to the end game. A final decision will be made [within two weeks](#).

The [claims of the two women](#) are complicated by the fact that both say they had previously had consensual sex with Assange. One of the two women has told Swedish investigators that she was coerced to have sex with Assange, and that he carried on without using a condom, despite her insistence that he use one. The other said he initiated sex with her while she was asleep, and without consent being given.

#### [IN PICTURES: Wikileaks and the war in Iraq](#)

Could the pair be lying? That's certainly a possibility. But the insistence of Assange and his supporters that they are *definitely* lying, that there is *no reason* to take their accusations seriously, may speak to a siege mentality and, frankly, a disregard for how much difficulty women face in getting authorities to take their accusations of assault and sexual harassment seriously, particularly when their accusations are directed at powerful public figures.

The public position of Wikileaks has been that there's a secret deal between Sweden and the US to ship the Australian to American custody as soon as possible. The evidence presented? None. It's possible that the US has sought a sealed indictment of Assange, but it's also possible that it hasn't. And why Sweden? Unclear.

As British legal analyst Carl Gardner [told the Monitor's Ben Arnoldy](#), under European law the [UK](#) would retain an effective veto over a Swedish extradition attempt. In other words, both Sweden and the UK would have to agree to the extradition. It would have been simpler to make the request while he's in the UK, with only one country in the mix.

But no matter, Wikileaks – which Assange says is dedicated to something called "scientific journalism" – is convinced. On May 29, its [main Twitter account](#) wrote: "[Hillary Clinton](#) and State Dept team arrive [Stockholm](#) June 3-4; 4 days after Assange extradition decision. Fanciful to think no discussion." The US says Ms. Clinton is heading to Sweden for a climate change conference and to discuss "a range of issues, including green energy, Internet freedom, [Afghanistan](#) and the [Middle East](#)" with Swedish leaders.

Yesterday, the group wrote in a statement: "The US, UK, Swedish and Australian governments are engaging in a coordinated effort to extradite its editor in chief Julian Assange to the [United States](#), to face espionage charges for journalistic activities."

It's not just Assange's organization making this allegation. Yesterday Wikileaks' Twitter account quoted prominent left-wing journalist [John Pilger](#) approvingly as saying, "Swedish elite has forged sinister and obsequious links with [Washington](#)."

Mr. Pilger has been one of the self-appointed defenders of Assange. In an [interview with Truthout](#) this week he

dismissed out of hand the allegations made against the Wikileaks supremo. "The attempt to extradite Assange is unjust and political," he said. How does he know this? "I have read almost every scrap of evidence in this case and it's clear, in terms of natural justice, that no crime was committed."

I don't know much about natural justice, but the evidence, such as it is, are the claims made by two women in Sweden to the authorities there, on the one hand, and Assange's public denials on the other. It's a classic she-said-she-said-he-said situation, and Assange has made every effort to avoid going to Sweden to formally present his side of the story for over a year-and-a-half now.

To be sure, the US government has made it clear that it considers Assange a danger and would love to prosecute the man if it can find evidence to support an indictment (the "foreign enemy combatant" dodge against presenting evidence in court isn't available in his case). And there are indications that they may eventually find a way.

Journalist Parmy Olson alleges in her new book, "We Are Anonymous," that Wikileaks had cultivated ties with [LulzSec](#), the loose-knit hacker collective [that had five of its members](#) arrested in the UK and US in March. The arrests followed months of investigation after LulzSec hacker Hector Monsegur was uncovered by the [FBI](#) and turned informant to avoid jail time. Mr. Monsegur, working under the handle "Sabu," provided evidence that other LulzSec members were involved in the theft of internal emails at the consulting company Stratfor, which were then [given to Wikileaks for dissemination](#).

Wikileaks' legal protection for the documents it provides is that it doesn't solicit illegal activity, and merely acts as any news outlet would when information is provided to it. But actively soliciting illegal activity would be another matter, and something that the FBI would surely be interested in pinning on Assange.

[In Ms. Olson's telling](#), Assange contacted one of the LulzSec members who was later arrested on June 16, 2011, because Wikileaks was interested in "infiltrating several Icelandic corporate and government sites." Olson writes that LulzSec member "Topiary" (later arrested and revealed to be Jake Davis of the UK) and Mr. Monsegur, already working as an FBI informant, participated in an Internet-relay-chat conversation with Assange and another Wikileaks supported identified only as "q."

#### [IN PICTURES: Wikileaks and the war in Iraq](#)

"Assange and q appeared to want LulzSec to try to grab the e-mail service of government sites, then look for evidence of corruption or at least evidence that the government was unfairly targeting WikiLeaks," Olson writes. "The picture they were trying to paint was of the Icelandic government trying to suppress WikiLeaks's freedom to spread information. If they could leak such evidence, they explained, it could help instigate an uprising of sorts in [Iceland](#) and beyond."

If her reporting holds up (there has not yet been any independent corroboration) that provides a link, albeit an extremely tenuous one, to hackers involved in the theft of data. There's no evidence any criminal activity was ever directed at the Icelandic government, and the men involved were still involved with Anonymous, a larger hacker collective of which LulzSec is an offshoot, at the time. No evidence has been presented of any



Wikileaks coordination with the successful effort to steal Stratfor's data. And if there is any such evidence, it will almost certainly come to light, given Monsegur's extensive cooperation with the FBI at the time the Stratfor files were stolen.

For now, Assange faces no formal charges of any kind. The extradition request from Sweden is for questioning, and the US has made no formal requests for his extradition, from any country. Wikileaks itself is almost entirely consumed with Assange's legal battles. There have been no actual leaks for some time.

#### Recent posts

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[Why Britain is likely to send WikiLeaks' Assange to Sweden on rape charges](#)

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#### Comments:

##### FToben

In 2008 I was lucky escaping the European Arrest Warrant's powers because British Common law principles intervened.

Perhaps Julian Assange can beat the EAW the second time around.

Fredrick Toben - Adelaide, Australia -

#### >>Holocaust denier Fredrick Toben wins German extradition fight – Times Online

November 20, 2008, Holocaust denier Fredrick Toben wins German extradition fight

Dr Frederick Toben, an Australian citizen, is wanted in Germany for publishing anti-Semitic material on the internet.

The Holocaust denier, Frederick Toben, has been released from custody after the German government gave up its legal battle to extradite him from Britain. The controversial historian was arrested at Heathrow last month on a European arrest warrant accusing him of racism and anti-Semitism. German prosecutors were then forced to appeal to the High Court after a British

Court refused to hand him over.

Kevin Lowry-Mullins, Dr Toben's solicitor, confirmed today that the appeal had been withdrawn and he had signed a consent order with the German government to end the case.

Mr Lowry-Mullins told The Times: 'Dr Toben was released from custody yesterday. He's over the moon.'

Lawyers acting for the German government argued last month that Dr Toben, the founder and director of the revisionist Adelaide Institute, should be extradited to face trial for posting claims on the institute's website that there was no mass murder of Jews by the Nazis. But Westminster Magistrates Court district judge Daphne Wickham ruled that the warrant used to arrest the 64-year-old Australian as he travelled from America to Dubai on October 1 was "vague and imprecise". Dr Toben was unable to raise the £100,000 bail however, and remained in custody awaiting Germany's appeal at the High Court.

Under Section 130 of the German criminal code, holocaust denial is illegal and offenders can face up to five years in jail, but the case caused unease in Britain where there is no such law. Attempts to extradite him were seen by many as an assault on free speech. Mr Lowry-Mullins said: "The offence is not made out in the UK. If Dr Toben had been extradited back to Germany for Holocaust denial, which does not exist as an offence in this country, then we would have found ourselves in a situation where hypothetically, the Iranian government could have asked for all the gay Iranian asylum seekers to be extradited back to Iran." Mr Lowry-Mullins said the German chief state prosecutor handling Dr Toben's case had been so confident of success at one point that he had bragged Dr Toben would be in Germany for Christmas. But the solicitor said that he believed the German government had been shaken by comments he had made outside court after the discharge hearing. "I said, 'We will go all the way to the House of Lords with this and let the House of Lords decide'. But when



the draft extradition Act passed through the House of Lords in 2002, one of the questions was what would happen if someone was arrested on a European arrest warrant to be extradited to a country where Holocaust denial is an offence.

"The response was, 'No, that will never happen'." Mr Lowry-Mullins confirmed that Dr Toben was still in England waiting for his passport to be returned to him. Dr Toben was previously convicted and jailed for nine months in Germany in 1999 after he claimed on the Adelaide Institute website that the Holocaust had been grossly exaggerated.

In a disclaimer on the present day site, Dr Toben writes that anyone who questions the "Holocaust story/legend/myth...will face a world-wide group of enforcers who will use any means to destroy dissenting voices."

He adds: "If you wish to begin to doubt the Holocaust narrative, you must be prepared for personal sacrifice, must be prepared for marriage and family break-up, loss of career, and go to prison. This is because Revisionists are, among other things, dismantling a massive multi-billion dollar industry that the Holocaust enforcers are defending." <<

<http://cyberlaw.org.uk/2008/11...>

#### **\*SmilingAhab, OBVIOUS TROLL IS OBVIOUS**

"The public position of Wikileaks has been that there's a secret deal between Sweden and the US to ship the Australian to American custody as soon as possible. The evidence presented? None. It's possible that the US has sought a sealed indictment of Assange, but it's also possible that it hasn't. And why Sweden? Unclear."

Evidence:

<http://wikileaks.org/gifiles/d...>

Why Sweden?

<http://www.swedenversusassange...>

Sweden's elite and the USA are pretty buddy-buddy.

"As British legal analyst Carl Gardner told the Monitor's Ben Arnoldy, under European law the UK would retain an effective veto over a Swedish extradition attempt. In

other words, both Sweden and the UK would have to agree to the extradition. It would have been simpler to make the request while he's in the UK, with only one country in the mix."

But Australia's new 'Wikileaks Amendment' relaxes extradition laws for minor offenses - what Assange faces in Sweden.

So Sweden and Britain can blame each other, look all confused, Australia gets rid of a non-precariat and Julian gets the rope in the Empire.

Oh look, a convenient excuse to charge Assange with something extradition-worthy:

<http://www.reuters.com/article...>

"Journalist Parmy Olson alleges in her new book, "We Are Anonymous," that Wikileaks had cultivated ties with LulzSec, the loose-knit hacker collective that had five of its members arrested in the UK and US in March."

But then you say

"If her reporting holds up (there has not yet been any independent corroboration) that provides a link, albeit an extremely tenuous one, to hackers involved in the theft of data. There's no evidence any criminal activity was ever directed at the Icelandic government, and the men involved were still involved with Anonymous, a larger hacker collective of which LulzSec is an offshoot, at the time."

So you contradict your own implications, for the same reason lawyers and congressmen blurt out things they know will be stricken from the record, or are proven false - an appeal to ethos to block out pathos.

#### **SMEAR PIECE.**

Also the USA has a history of doing whatever the hell it wants, walking all over international law, and the rest of the world either in bed with the USA or too busy trying to survive the proxy wars or internal divisions, strife and authoritarianism the USA is notorious for instigating to push back. They will have Assange and they will kill him and WikiLeaks for showing the USA for what it really is.

Number Of Iraqis Slaughtered In US War And Occupation Of Iraq " <b>1,455,590</b> "	Number of U.S. Military Personnel Sacrificed (Officially acknowledged) In U.S. War And Occupation Of Iraq <b>4,801</b>	Number Of Cost of War in Iraq & Afghanistan Force \$1,349,622,633,718	Occupation Troops Slaughtered In Afghanistan : <b>3,073</b>
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[For more details, click here.](#)

## Why The Assange Case Is Important

John Pilger

May 30, 2012 " [Information Clearing House](#)"

On 30 May, Britain's Supreme Court turned down the final appeal of Julian Assange against his extradition to Sweden. In an unprecedented move, the court gave the defence team of the WikiLeaks editor permission to 're-apply' to the court in two weeks' time. On the eve of the judgement, Sweden's leading morning newspaper, **Dagens Nyheter**, known as DN, interviewed investigative journalist John Pilger, who has closely followed the Assange case. The following is the complete text of the interview, of which only a fraction was published in Sweden.

*DN Julian Assange has been fighting extradition to Sweden at a number of British courts. Why do you think it is important he wins?*

**JP** Because the attempt to extradite Assange is unjust and political. I have read almost every scrap of evidence in this case and it's clear, in terms of natural justice, that no crime was committed. The case would not have got this far had it not been for the intervention of Claes Borgstrom, a politician who saw an opportunity when the Stockholm prosecutor threw out almost all the police allegations. Borgstrom was then in the middle of an election campaign. When asked why the case was proceeding when both women had said that the sex had been consensual with Assange, he replied, "Ah, but they're not lawyers." If the Supreme Court in London rejects Assange's appeal, the one hope is the independence of the Swedish courts. However, as the London *Independent* has revealed, Sweden and the US have already begun talks on Assange's "temporary surrender" to the US -- where he faces concocted charges and the prospect of unlimited solitary confinement. And for what? For telling epic truths. Every Swede who cares about justice and the reputation of his or her society should care deeply about this.

*DN You have said that Julian Assange's human rights have been breached. In what way?*

**JP** One of the most fundamental human rights -- that of the presumption of innocence -- has been breached over and over again in Assange's case. Convicted of no crime, he has been the object of character assassination -- perfidious and inhuman -- and highly political smear, of which the evidence is voluminous. This is what Britain's most distinguished and experienced human rights

lawyer, Gareth Peirce, has written: "Given the extent of the public discussion, frequently on the basis of entirely false assumptions ... it is very hard to preserve for [Assange] any presumption of innocence. He has now hanging over him not one but two Damocles swords of potential extradition to two different jurisdictions in turn for two different alleged crimes, neither of which are crimes in his own country. [and] his personal safety has become at risk in circumstances that are highly politically charged."

*DN You, as well as Julian Assange, don't seem to have confidence in the Swedish judicial system. Why not?*

**JP** It's difficult to have confidence in a prosecutorial system that is so contradictory and flagrantly uses the media to achieve its aims. Whether or not the Supreme Court in London find for or against Assange, the fact that this case has reached the highest court in this country is itself a condemnation of the competence and motivation of those so eager to incarcerate him, having already had plenty of opportunity to to question him properly. What a waste all this is.

*DN If Julian Assange is innocent, as he says, would it not have been better if he had gone to Stockholm to sort things out?*

**JP** Assange tried to "sort things out", as you put it. Right from the beginning, he offered repeatedly to be questioned -- first in Sweden, then in the UK. He sought and received permission to leave Sweden - which makes a nonsense of the claim that he has avoided questioning. The prosecutor who has since pursued him has refused to give any explanation



**about why she will not use standard procedures, which Sweden and the UK have signed up to.**

*DN IF the Supreme Court decides that Julian Assange can be extradited to Sweden, what consequences/risks do you see for him?*

**JP First, I would draw on my regard for ordinary Swedes' sense of fairness and justice. Alas, overshadowing that is a Swedish elite that has forged sinister and obsequious links with Washington. These powerful people have every reason to see Julian Assange as a threat. For one**

**thing, their vaunted reputation for neutrality has been repeatedly exposed as a sham in US cables leaked by WikiLeaks. One cable revealed that "the extent of [Sweden's military and intelligence] co-operation [with Nato] is not widely known" and unless kept secret "would open up the government to domestic criticism". Another was entitled "WikiLeaks puts neutrality in the dustbin of history". Don't the Swedish public have a right to know what the powerful say in private in their name?**

## **Kangaroo Court of Australia**

### **JULIAN ASSANGE AND WIKILEAKS – WHAT AUSTRALIAN POLITICIANS KNOW**

Julian Assange's lawyer Jennifer Robinson submitted a brief for federal politicians in March 2011 which is below. For anyone who has an interest in Mr Assange and his matters it is a must read whether you support him or not. It lets you know what the federal politicians know. By the time you are reading this Julian Assange has lost his appeal in the UK Supreme Court and faces extradition to Sweden. Although he has been given a stay of 14 days to possibly request that proceedings be reopened. [Click here to read more](#) - Click on the following link to read the full judgement: **Assange Appellant v The Swedish Prosecution Authority Respondent.**

On 2nd March 2011 at 9.15am a meeting was held, organised by Andrew Laming (Liberal Party MP Bowman Qld) at Parliament House Canberra to allow federal parliamentarians who wished to attend, some insights into the matters of Julian Assange facing extradition from the UK to Sweden, and facing (subject to that extradition process) a possible trial in Sweden and another possible extradition to the USA thereafter.

Among others, MPs Andrew Laming, Malcolm Turnbull, Doug Cameron and Sarah Hanson-Young were in attendance, along with parliamentary staff members.

The following brief was submitted to the meeting by Jennifer Robinson of the firm Finers Stephens Innocent. She is part of the legal team representing Julian Assange in the extradition proceedings requested by Sweden.

**1.** I am writing to you to provide a briefing for the meeting of members of Federal Parliament on Wednesday 2 March 2011 regarding the case against Julian Assange. This briefing note sets out the timeline of events and the human rights concerns that we have raised in relation to Julian's case in Sweden.

**2.** Julian is facing extradition to Sweden pursuant to a European Arrest Warrant (EAW). He is currently electronically tagged and held under virtual house arrest, having spent nine days in solitary confinement in a London prison for a crime that he has not been

charged with and in relation to allegations that he emphatically denies.

**3.** It is mutually concerning that an Australian citizen like Julian has been treated in ways which would not accord with the standards of Australian law or indeed international law. As I set out in this note, if he is extradited to Sweden, he will be held incommunicado, in solitary confinement, and without bail for several months and then tried in secret on allegations which are weak and which would not constitute a crime in Australia or in the UK. In such event, it can be predicted that Australians will be outraged and that considerable damage will eventuate in respect of relations between Australia and Sweden.

**4.** It is hoped that this briefing note will act as a resource for concerned Australian MPs to raise questions and to take action on Julian's behalf. Timeline of Events and Overview of Concerns

**5.** Julian had travelled to Sweden in August last year for the purposes of giving public lectures about his work on Afghanistan and in order to seek protection for WikiLeaks from the strong free speech and publication protections under Swedish law in advance of the Iraq War Logs, the publication of Iraq war military reports, and "Cablegate", the publication of US diplomatic cables. The allegations against Julian were made to police on 20 August 2010.**6.** That same day, the initial Prosecutor, Maria Häljebö Kjellstrand, unlawfully told the press that Julian was wanted for rape (reported in the tabloid Expressen) before he himself had been informed. Julian first learned of the allegations when he read it in the papers. In providing this information to the press the Prosecutor contravened Swedish privacy and secrecy law, which protects the confidentiality of preliminary criminal investigations and is supposed to protect those being investigated from adverse and prejudicial media coverage. A complaint was made about the Prosecutor's illegal act to the Judicial Ombudsman but no action is being taken. As a result of this illegal act, Julian discovered in the press that he was 'wanted for double rape'. Within hours there were

millions of website hits for "Assange" and "rape", causing irreparable and incalculable damage to his reputation. The illegality of the Prosecutor's actions was confirmed by our expert evidence in the extradition proceedings here in London, as was the fact that no remedy exists in Swedish law for the breach.

**7.** The next day, Chief Prosecutor of Stockholm, Eva Finne, threw out the rape charge after reviewing the police file and the statements of the two women. The investigation continued on lesser allegations of harassment only. Julian volunteered himself for interview on 30 August 2010 in relation to this ongoing investigation. Julian sought an undertaking from the police that his testimony would not be provided to the press. This undertaking was violated: his police interview turned up in the tabloid Expressen the very next day. Again, Julian has no remedy against this breach of privacy and the continued disclosures by police have continued to fuel prejudicial media coverage.

**8.** An appeal was brought against Ms Finne's decision to drop the rape charges by a lawyer acting for the complainants, Mr Claes Borgstrom. Mr Borgstrom is a Social Democrat politician who was, at that time, campaigning for election in the election to be held the following month (September 2010) and whose political platform and reputation is closely associated with sexual offence law reform. The Prosecutor, Ms Ny, granted the appeal on 1 September 2010 and the rape investigation was reinstituted. Julian was not informed of this appeal or provided the opportunity to make any submissions.

**9.** The Prosecution continued to provide information about the preliminary investigation to the press. Expressen applied for access to the police file on 1 September and this was granted: redacted versions of Julian's statement and emails between the police and prosecutor were provided to the press shortly thereafter. We were only alerted to this on 21 January 2010, some four months later, when this same material was disclosed by the Prosecutor to Mr Hurtig and passed to us. It is noteworthy that Mr Hurtig had applied for disclosure of the police file in September and November 2010. Both requests for disclosure were denied by the Prosecutor, Ms Ny, despite the fact that some of this material had already been provided to the press.

**10.** Julian remained in Sweden for approximately 5 weeks to answer the allegations against him. Through his lawyer Mr Hurtig, proactive attempts were made to arrange interview and to seek permission to leave the country. For example, Julian offered himself for interview on 15 September but this was rejected by the prosecutor because the relevant police officer was sick.

**11.** An interview was finally proposed on 22 September (more than three weeks after Ms Ny had begun the investigation) for 28 September. Mr Hurtig was unable

to contact Julian to communicate this request. It is important to note here that Julian was, at that time, difficult to contact. He was maintaining a low profile because of threats to his security and increasing pressure from the US in advance of the two largest disclosures of US classified documents in history: the Pentagon had just announced a team of 120 people dedicated to "taking action" against WikiLeaks. Before Mr Hurtig was able to contact Julian he had already left Sweden for Berlin for WikiLeaks meetings associated, having been told on 15 September that Ms Ny had no objection to him leaving the country. He did not flee the country to avoid interrogation, as has been suggested by the Prosecution, but instead had left for a pre-arranged business meeting with Der Spiegel – one of his media partners in Cablegate, on the understanding that there was no impediment to him leaving the country.

**12.** Julian telephoned Mr Hurtig from Berlin on 29 September to inform him that his luggage had gone missing on his Stockholm-Berlin flight and that it was now presumed to have been stolen since the airline had not been able to locate and return it. He called to instruct Mr Hurtig to take legal action. It was then he was informed of Ms Ny's intention to interrogate him. Julian offered to return to Sweden on 9-10 October for interrogation. This date was rejected as being 'too far away'.

**13.** During October and November, Julian was in London working on the Iraq War Log release and preparing for Cablegate with media partners, including The Guardian, Der Spiegel, Le Monde, El Pais and The New York Times. He also travelled to Switzerland to present at a United Nations Human Rights Council meeting. During this period, we offered that Julian be interviewed via telephone or video-link from London on the condition that the Prosecutor provide him further information about the allegations and potential charges. We offered his voluntary cooperation, through his Swedish lawyer Mr Hurtig, and suggested the use of the Mutual Legal Assistance scheme between Sweden and the United Kingdom. These offers were rejected.

**14.** In the meantime, I wrote to the UK police on 2 November 2010 and informed them that we acted for Julian and that he could be contacted through us for the purposes of any legal proceedings. This is significant: throughout this period Julian had continually indicated his willingness to cooperate with the authorities by offering alternative means of interview to the Swedish and by reporting his presence in the UK to the local police. The widely reported suggestion he was in hiding from justice is simply false.

**15.** After our voluntary offers of cooperation were rejected, the arrest warrant in Sweden was granted on 18 November 2010. Ms Ny, the Prosecutor, sought an arrest order to have Julian held incommunicado pending potential trial. These pre-trial detention



conditions in Sweden have been heavily criticised by the European Council and by the United Nations, in particular, for the treatment of foreigners.

**16.** Just before the hearing on 18 November Mr Hurtig was, for the first time, provided a description of the allegations against Julian and provided copies of parts of the police file. At that time he was also shown more than 100 text messages between the two complainants and their friends, which contained important evidence about the allegations and the women's motives. For example, the second complainant had been texting her friends in between sexual encounters with Julian over the course of the evening in question and states that she was "half-asleep" at the relevant time at which the arrest warrant asserts she was "asleep": a very important factual error in the warrant which undermines the entire case. Further, the women speak of getting "revenge", making money from the allegations and ruining Julian's reputation by going to the press. However, the prosecutor refused to allow Mr Hurtig to take copies or to even take notes from this important evidence.

**17.** Mr Hurtig has made numerous requests for further disclosure under Swedish Criminal Procedure Code (Chapter 23.18), but these have been denied. In correspondence with the Australian Embassy in Stockholm, Ms Ny justifies her position in refusing to disclose this important material on the grounds that Julian has not yet been charged. This highlights the injustice of the EAW system: Julian has been held in solitary confinement and is now under effective house arrest without the Swedish Prosecutor having to show a reasonable case against him – or, indeed, any of the evidence against him to the British court.

**18.** Despite Mr Hurtig's requests, Ms Ny had consistently refused to inform Julian regarding the specific charges to be brought against him before he was interviewed: interview by ambush is the preferred Swedish method. We had requested a specific description of the charges and the evidence in English as a condition precedent to Julian returning to Sweden to be interviewed. This, again, was refused. The first document Julian received from the prosecutor in English was the translation of the EAW provided by the English police at Kentish Town Police station in London when Julian voluntarily met with police to answer the warrant on 7 December 2010. This was the first time he had been informed in writing of the specific allegations and potential charges against him in English. I was with Julian at the police station and witnessed his shock and surprise at reading the allegations as described in the warrant.

**19.** It is noteworthy that the both the EAW and the Interpol red notice were issued for Julian by Sweden just before WikiLeaks began to publish Cablegate with their media partners and were executed just days after publication began. Had Julian returned to Sweden in

October or November, we know (confirmed by the findings of the judge in London on 24 February 2011) that he would have been held incommunicado in prison pending trial and we may not have seen the release of Cablegate. Furthermore, his Swedish counsel, Mr Hurtig noted at the time that it was highly irregular for an international arrest warrant to be sought in relation to allegations of this kind.

**20.** The Swedish prosecutor has failed to disclose any materials to Julian in English (the language he understands), which is her obligation under the European Convention of Human Rights. We have since been provided certain excerpts of the police file in Swedish and translation costs now exceed £20,000 (AUD\$32,000) as a result of the Prosecutor's failure to meet her human rights obligations in this regard. Furthermore, she has failed to disclose relevant exculpatory evidence that tends to demonstrate Julian's innocence.

**21.** The Prosecutor has apparently failed to consider and disclose exculpatory evidence in her investigation, as is her duty as prosecutor.

**(1)** First, it is clear that the text messages (approximately 100 of them) between the two complainants and their friends cast doubt on the allegations and contradict the specific factual allegations in the EAW that form the basis of his arrest – though we are unable to properly assess these because the Prosecutor refuses to disclose them to Julian.

**(2)** Second, it has subsequently come to light that the first complainant, Ms A, has been deleting important evidence (i.e. tweets which demonstrated that she had been enjoying Julian's company after the alleged assault). It is not clear whether this evidence has been considered because, despite the fact it was provided to the Prosecution by Mr Rudling, it does not form part of the police file disclosed to us.

**(3)** Third, the Prosecutor has not contacted several potential witnesses who spent time with Mr Assange and the first complainant, Ms A, who know them both and can attest to their friendly relations in the days after the alleged assault.

**22.** The parts of the police file disclosed to the defence on 18 November 2010 (translated at significant cost to Julian) demonstrate that police have acted improperly and in breach of proper procedures in investigating sexual offence allegations.

**(1)** First, it is clear that the women met together before making the allegations and had discussed the evidence at length, thereby contaminating their evidence.

**(2)** Second, it has since come to light that the policewoman who had interviewed both women and initially reported the alleged rape to the Prosecutor was a friend of the first complainant, Ms A, and had also run for election for the Social Democrats (the same party

for which Ms A and her lawyer, Mr Borgstrom, have stood for election) .

**(3)** Third, both women were interviewed only briefly over the telephone and their interrogation is in summary form only. Indeed, the second complainant's interview summary is not even signed or approved by her (she was upset at hearing Julian had been wanted for rape and her friend's later interview to the police states that she felt "railroaded" into making the complaint). This breaches police procedure: interviews with witnesses in sexual offence cases must be recorded in full (video or tape recorded) because the initial interview is important evidence at trial. It is notable that all of the Prosecution witnesses' interviews are recorded in summary format so it is impossible to know what the police asked and what their precise answers were in response. Only the interviews with Mr Assange and his friendly witnesses were recorded in full. These irregularities in police procedure will cause evidential problems in any trial, particularly if the reliability of the complainants' testimony is in question.

**23.** As to the strength of the evidence that founds the basis for the warrant, a number of observations can be made. First, evidence at the extradition hearing in London brought to light that not one, but two well-regarded prosecutors in Stockholm do not believe there to be sufficient evidence to found a prosecution. Eva Finne dropped the rape investigation in August but was overruled on appeal. Ms Ny's own deputy, Prosecutor Erika Lejnors, had told Mr Hurtig in November that the case would likely be dropped because it was so weak. Nevertheless, an international arrest warrant was sought for Julian's arrest. Second, expert evidence from the most respected criminal lawyer in England, Professor Andrew Ashworth of Oxford University, concludes that the facts as alleged in the EAW and the police statements of the two women would not constitute rape or any other crime in England.

**24.** Further, Julian has suffered immense adverse prejudicial media coverage in Sweden, fuelled both by the disclosure of police material to the press by the Prosecution and by the highly prejudicial media statements of the lawyer of the two complainants and funded by the Swedish government, Mr Borgstrom. Mr Borgstrom has called Julian a "coward" for not returning to Sweden and has alleged that his refusal to return is indicative of his guilt.

**25.** The Prime Minister of Sweden intervened in the case by making highly prejudicial and pejorative remarks in the Swedish press following the extradition proceedings in London on 7 and 8 February 2011. The Prime Minister told the press that Julian has been indicted and is being prosecuted for rape. This is not correct – Julian has not yet been charged, the preliminary investigation has not yet been concluded and no decision has been made to prosecute. The Prime Minister's comments are inappropriate given his

political position (he had, just weeks earlier, refused to comment on Julian's case on the grounds it was a matter for the courts and not for politicians) and given that a key question being determined by the British court is whether the warrant is for questioning or for prosecution. The Prime Minister made pejorative remarks regarding Julian's legal defence, including the incorrect suggestion that Julian's defence is to deem women's rights "of little value". This was subsequently reported as Julian and his defence team "trying to limit the right for women to take a claimed sexual abuse to court". This clearly and unfairly mischaracterises Julian's defence case and has led to him being portrayed as an enemy of Sweden and of women's rights in the Swedish press.

**26.** Other politicians have followed the Prime Minister in attacking Julian and his defence. For example, the Chancellor of Justice, Anna Skarhed, has described the defence as "shocking". The Chancellor of Justice then states that the defence has accused the Swedish legal system of being "corrupt": but anyone who has read our submissions or followed court proceedings will know this is simply not true. Our skeleton arguments and all of the case evidence filed with the court is available on our website: <http://www.fsilaw.com/news-media/news/28-julian-assange-case-papers/>

**27.** Given the nature of the press coverage in Sweden, we have grave concerns as to whether Julian will receive a fair trial: he will be tried in secret, behind closed doors, by a judge and three lay judges (jurors) who are appointed by political parties. The Swedish press does not seem at all concerned with the need for suspects to be presumed innocent and it is difficult to see how jurors could remain unaffected by this media coverage.

**28.** In summary, our concerns regarding the case in Sweden to date include:

- the unlawful and prejudicial disclosures by police and the prosecution regarding ongoing criminal investigations;
- the failure to disclose details of the allegations and the evidence in English;
- the breaches of police procedures in the investigation of the allegations;
- the apparent failure of the Prosecutor to consider exculpatory evidence;
- the disproportionate behaviour of the Prosecutor in refusing voluntary offers for cooperation and refusing to make use of alternative methods for interviewing Julian – insisting instead on an international warrant which unduly restricts his liberty;
- the pre-trial detention conditions sought by the Prosecutor;
- the prospect of a secret trial; and
- the adverse and prejudicial media coverage, fuelled by the state-funded lawyer for the complainants and



the country's most senior politicians, including the Prime Minister.

Decision to grant extradition – 24 February 2011

**29.** On 24 February 2011, District Judge Riddle ordered that Julian be extradited to Sweden. It must be noted that this is simply the initial ruling on the validity of a EAW and did not deal with the substance of the allegations against Julian, which he has always firmly denied. The judgment concerns whether it is technically valid for a EAW to be used in this manner. The strength or weakness of the allegations, and even their detail, cannot be heard in a EAW case. This is one of the central complaints made by law reformers about the EAW process – a civil liberties disaster and the subject of investigation and campaigns by human rights groups such as Fair Trials International.[1]

**30.** It must be remembered that under the EAW system, the British courts are bound to regard the prosecutors of no less than 26 countries, including Poland and Romania – as perfect. The Extradition Act 2003 allows European countries to deem prosecutors and even policemen “as judicial authorities” (a contradiction in terms, because they are neither independent nor impartial) and to demand return of their suspects from the UK so long as they tick the right box on the EAW form. In Julian's case, for example, they ticked “rape” and the court cannot dispute that the allegation is of rape, even though the leading authority on sexual offences, the Oxford Professor Andrew Ashworth, disputes this characterisation. There can be no questioning on the merits of the charges – in 2003 parliament abolished the traditional right of a suspect to require foreign governments to show a prima facie case before dragging them off to unfair trials. It also took away the historic right of individuals facing extradition to show that the case against them was unfounded.

**31.** Judge Riddle – a hostile judge – made a number of important factual findings. Judge Riddle ordered Julian's extradition to Sweden despite the fact that he agreed that:

- upon return to Sweden Julian will be held incommunicado pending trial because Sweden has no system of bail; and
- Julian will be subjected to a secret trial, which is anathema to Australian and British traditions of open justice and an outrage given the widespread dissemination of the allegations against him by the Swedish authorities.

**32.** The decision to extradite Julian is not final, nor (as has been misreported) does it “determine his fate”. Julian is permitted an appeal as of right by the 2003 Extradition Act. Thereafter, points of law may, with permission, be appealed to the Supreme Court.

**33.** The appeal to the High Court was filed today in London. The dates for this appeal are not yet available

but we anticipate it will be heard sometime between April and June.

**34.** It is our position that the EAW system should not simply be used as a rubber stamp, but instead ought to be used to improve the quality of justice throughout Europe. Extradition ought to be refused when the trial in prospect is likely to be unfair judged according to fundamental fair trial principles because only then can things improve and human rights blind spots be eradicated. If the British courts declare that open justice is the only possible justice by refusing to extradite Julian to Sweden, this would very likely have the result that Sweden would change its unacceptable policy.[2]

#### **Action points for Australian MPs**

**35.** Julian remains willing to cooperate with the Swedish investigations, provided that certain guarantees are provided in respect of the human rights concerns raised above. We would encourage Australian MPs who are concerned at Julian's treatment to raise the following concerns.

**36.** First, to ask our government to seek guarantees from both the Swedish and British governments that Julian will not be extradited to the United States to face prosecution in relation to WikiLeaks publications. Any such prosecution would violate the right to free speech and the protections of the First Amendment. His concern about being extradited to the US is justified in light of:

- US Attorney-General Eric Holder's ongoing criminal investigation;
- recent subpoenas of Twitter accounts of WikiLeaks, their associates and supporters, which proves an ongoing federal criminal investigation in Virginia and demonstrates intent to prosecute; and
- the recent statement by US Ambassador to the UK to the BBC that the US is waiting to see how things work out in the British courts.

**37.** Second, demands must be made of the Swedish authorities to ensure that, if Julian returns to Sweden, that his human rights will be protected. These include:

- The evidence in the case be disclosed to him in English, as is Sweden's obligation under the European Convention on Human Rights. Full disclosure of the police file, including the exculpatory evidence such as the text messages, must be provided.

This request – made in November when an international arrest warrant was being threatened and extended by us to Mr Hurtig as condition precedent to Julian returning/being interviewed – has still not been complied with. Translation costs have exceeded £20,000 because of Sweden's failure to meet their human rights obligations in this regard. It has also delayed our work and made our legal defence more difficult.

- A guarantee be provided that he will not be held incommunicado or in custody pending any trial.

Again, this was one of our concerns in October and November when Ms Ny requested that he return to Sweden – a concern that was validated on 18 November when Ms Ny sought an order for arrest that would have seen Julian held incommunicado pending trial. These pre-trial conditions have been criticised by international human rights bodies. Aside from human rights concerns, as noted above, Julian was at that time preparing for the release of the Iraq War Logs (23 October 2010) and Cablegate (28 November 2010). Had he returned to Sweden and been held incommunicado in pre-trial detention, these important and internationally significant WikiLeaks releases would have been jeopardised.

- A guarantee be provided that his trial be heard in public: the press and public should be permitted entry to the Court. Other measures, similar to those deployed in Australian courts, can be taken to protect the women in giving their testimony.
- A guarantee be provided that he will not be extradited to the United States, but instead will be allowed to travel back to Australia.

In considering the risk of extradition to the US from Sweden, it must be recalled that Sweden has a history of complying with US requests to hand over persons of interest notwithstanding potential human rights concerns – international bodies have recently found Sweden liable for handing asylum seekers over to the CIA for torture (see Mohammed Alzery v. Sweden (Communication No. 1416/2005, UN Human Rights Committee) and Agiza v. Sweden (Communication No. 233/2003, UN Committee Against Torture, Decision of 24 May 2005 (CAT/C/34/D/233/2003))).

Further, WikiLeaks cables released last December demonstrate that intelligence sharing and cooperation between Sweden and the US is far deeper than anyone had realised, calling into question Sweden's perceived neutrality, and the extent of this cooperation had been

hidden from the Swedish Parliament and the Swedish people.

Also at the meeting on the 2nd March 2011 three speakers made themselves available for oral presentations and questions: Greg Barns, barrister from Tasmania; former Australian diplomat Tony Kevin and Peter Kemp solicitor from NSW, the latter two made written material available for the parliamentarians reprinted here with their permission. ([Click here to read their written submissions](#))

#### End of submission.

This matter has a long way to go. It is time for the Australian government to step up to the plate in a major way.

Click on the below links for previous posts on this site in relation to Julian Assange and WikiLeaks:

[Australian Prime Minister Julia Gillard's criminal history and her hypocrisy with WikiLeaks and Julian Assange.](#)

[Bob Brown and the Greens prostitute their soul and integrity and use WikiLeaks and Julian Assange for some free PR.](#)

[Sweden vs. Assange with special guest Julia Gillard in Sweden's corner.](#)

[Australian Government to close down WikiLeaks for 100 years.](#)

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